

REMARKS

The present Response is submitted in reply to the Official Action mailed November 15, 2004.

The Examiner has objected to the Specification and Drawings with respect to paragraph 022 and Fig. 1 on the grounds that paragraph 022 refers to a "Lower Wall 10L" which is not shown in Fig. 1 while Fig. 1 includes the reference numeral "12L".

In response, the Applicant notes that the reference to a Lower Wall 10L in paragraph 022 is a typographical error and that the lower wall is correctly referred to by the reference numeral "12L" in Fig. 1 and in paragraph 020. The Applicant has therefore amended paragraph 022 to be in conformance with Fig. 1 and paragraph 020, wherein the lower wall is identified with the reference numeral "12L", by changing "10L" in paragraph 022 to "12L".

The Examiner has further objected to the Specification in paragraph [028] wherein certain of the Figures are referred to as "Fig. ?". This is obviously a typographical error and the reference should be to Figs. 2A and 2B as paragraph [028] occurs at the end of the general discussion of Fig. 1 and begins a discussion of other implementations of the invention, which can only refer to Figs. 2A and 2B as Figs. 1, 2A and 2B are the only figures in the Application.

The Applicant has therefore amended paragraph [028] to refer to "Figs. 2A and 2B" rather than to "Fig. ?", thereby bringing this reference to the Figures into conformance with the preceding and following discussions of the Figures.

It will be noted that the above discussed amendments to the Specification have not added any new matter and have not altered or extended the scope or subject matter of the present Application in any way, but have served only to correct typographical errors. The Applicant, therefore, respectfully requests that the Examiner reconsider and withdraw all objections to the Specification and Drawings.

Referring now to the claims, claims 1 through 4 are presently pending in the Application and the Examiner has rejected claims 1-3 under 35 U.S.C. § 102 over U.S. Patent No. 3,140,590 to Gleockler for an AIR CONDITIONER FOR A FACE MASK, hereafter referred

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to as "Gleockler '590", but has indicated that claim 4 would be allowable if rewritten in independent form incorporating all recitations and limitations of base claim 1.

The Applicant thanks the Examiner for finding claim 4 to be allowable and, in response, has amended claim 4 by rewriting claim 4 into independent form incorporating all recitations and limitations of base claim 1. The Applicant, therefore, respectfully request the allowance of claim 4 as amended herein above.

Next considering claims 1-3, it will be noted that the Applicant has amended claim 1 herein above to more explicitly point out and recite certain fundamental distinctions of the present invention over the teachings of Gleockler '590.

As recited in amended claims 1 and 5, the present invention is directed to a cool air inhaler wherein the cool air inhaler is comprised of a single generally cup shaped body having at least one side wall and a bottom wall forming an enclosed space open at an upper portion of the body and wherein the upper portion of the body is adapted to generally conform to contours of a lower part of a patient face.

According to the present invention as recited in claims 1 and 5, the single cup shaped body includes an air chamber formed in an upper part of the body and having an exhaust vent for exhausting the patient's exhaled air to an exterior space, an ice reservoir formed in a lower part of the body to contain ice and meltwater from the ice, and an air passage connected from the exterior space and passing through the ice reservoir to conduct air to the air chamber. Intake air is drawn from the exterior space and through the air passage into the chamber when the patient inhales air from the chamber so that the intake air in the air chamber is cooled and moistened by the ice in the ice reservoir. The patient thereby inhales cool, moistened air from the air chamber and exhaust air exhaled by the patient is vented from the air chamber through the exhaust vent.

In contrast from the present invention, Gleockler '590 describes a face mask having a filtration unit for filtering harmful particles and gases from the exterior air and an air conditioning device to cool the air drawn into the mask. According to Gleockler '590, the air conditioning device is a canister separate from the mask and the cannister is connected into the air line into

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the mask at a point either before or after a filtration unit. The air conditioner canister contains a compartment for ice, an air input port and an air output port to the mask wherein the air output port is connected to the mask either directly, through a tube, or indirectly, through a filtration unit attached to the mask.

It will, therefore, be seen that there are fundamental distinctions between the inhaler of the present invention and the air conditioned face mask taught by Gleockler '590. For example, the inhaler of the present invention is comprised of a single generally cup shaped body that forms both an portion mating to the face of a patient, somewhat in the manner of a face mask, and the ice and air chambers for cooling the air provided to the patient. The entire device is thereby implemented within the single body.

In fundamental contrast from the present invention, the air conditioned face mask of Gleockler '590 is comprised of at least three separate parts, and includes four parts if the particle and gas filtration unit is considered. That is, the Gleockler '590 mask includes the face mask itself, which serves only to provide a passage from the air cooling and filtration elements to the user, the cooling canister that contains ice and a path allowing air to flow over the ice on the way to the user, and a means for connecting the canister to the mask. In one instance, wherein the filtration unit is located before the cooling unit, the means for connecting the canister to the mask is comprised of a tube. In the other instance, wherein the air is filtered after passing through the cooling unit, the means for connecting the canister to the mask is the filtration unit itself.

In either instance, therefore, the Gleockler '590 mask is not and cannot be implemented as a single unit, but must always be implemented as a multi-part assembly.

This requirement arises from the fact that the Gleockler '590 mask is originally intended for an entirely different purpose, that is, the filtration of hazardous substances from the air, and is adapted to provide cooling of the air by adding a cooling unit that was not part of the original design. The requirement that the Gleockler '590 mask be comprised of a number of separate elements still applies even after the modification to cool the air, however, because the Gleockler '590 mask is intended to perform multiple, completely different functions; that is, to

filter the air and to cool the air. Each of these functions requires a different mechanism, so that any mask constructed according to the teachings of Gleockler '590 must be comprised of multiple elements, that is, the mask, the air filter and the air cooling unit.

It is therefore the belief and position of the Applicant that the present invention as recited in amended claims 1 and 5 are fully and patentably distinguished over and from the teachings and suggestions of Gleockler '590 under the requirements and provisions of 35 U.S.C. § 102 as the Gleockler '590 mask does not and cannot be comprised of even generally corresponding elements performing generally corresponding functions.

In addition, it is the belief and position of the Applicant that the present invention as recited in amended claim 1 and new claim 5 are fully and patentably distinguished over and from the teachings and suggestions of Gleockler '590 under the requirements and provisions of 35 U.S.C. § 103. For example, and solely for purposes of discussion and without any admission on the part of the Applicant, it should be noted that in order to even generally approximate the present invention would require that the cooling unit of Gleockler '590 be physically and integrally incorporated into the Gleockler '590 mask. This, however, would be obviously infeasible due to the bulk and configuration requirements of the cooling unit.

Another approach would require discarding the mask portion of the Gleockler '590 assembly, discarding the top of the cooling canister, and requiring the user to breathe directly from the cooling canister by bringing their face to the open top of the cooling unit. This approach, however, would obviate the primary purpose of the Gleockler '590 mask by effectively eliminating the particle and gas filtration functions of the mask.

It is, therefore, apparent that it would not be apparent to one of ordinary skill in the relevant arts to look to Gleockler '590 for teachings appropriate or useable with regard to the present invention.

It is, therefore, the belief and position of the Applicant that the present invention as recited in amended claim 1 is fully and patentably distinguished over and from the teachings and suggestions of Gleockler '590 under the requirements and provisions of both 35 U.S.C. § 102 and 35 U.S.C. § 103. The Applicant therefore respectfully requests that the Examiner

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reconsider and withdraw all rejections of claim 1 as amended, as well as new claim 5, herein over Gleockler '590, and the allowance of claim 1 as amended herein.

It must also be noted that claims 2 and 3 are dependent from claim 1 and thereby incorporate all recitations and limitations of claim 1 by dependency, so that claims 2 and 3 are likewise distinguished over and from the teachings and suggestions Gleockler '590 under the requirements and provisions of both 35 U.S.C. § 102 and 35 U.S.C. § 103 for the same reasons that claim 1 is patentably distinguished over Gleockler '590. The Applicant, therefore, respectfully requests that the Examiner reconsider and withdraw all rejections of claims 2 and 3 as amended herein, and the allowance of claims 2 and 3.

If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.

In view of the above amendments and remarks, it is respectfully submitted that all of the raised anticipation and obviousness rejection(s) should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejection(s) or applicability of the Gleockler '590 reference, the Applicant respectfully requests the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

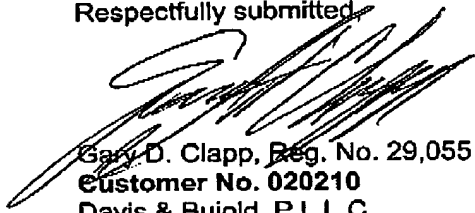
In view of the foregoing, it is respectfully submitted that the raised rejection(s) should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

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The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,



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